MT LEGISLATIVE HISTORY

BEST COPY AVAILABLE

Chapter 227 1985

Bill H 300 S _____ Original bill & hist. ✓ C

H. Committee on Jud			S. Committee on Jud.		
Hearing Date(s)	2-11	C	Hearing Date(s)	3-11	C
		C		3-13	C
		C			C
		C			C
Date Out	2-11	C		3-13	C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

3/20	SIGNED BY SPEAKER		
3/21	SIGNED BY PRESIDENT		
3/21	TRANSMITTED TO GOVERNOR		
3/22	SIGNED BY GOVERNOR .		
	CHAPTER NUMBER 152 EFFECTIVE DATE: 10/01/85		

HB 300 INTRODUCED BY NATHE, BRADLEY, ET AL.
EXTEND TIME FOR PROSECUTION OF SEX OFFENSES AGAINST CHILDREN

1/21	INTRODUCED		
1/21	REFERRED TO JUDICIARY		
2/11	HEARING		
2/11	COMMITTEE REPORT-BILL PASS AS AMENDED		
2/12	2ND READING PASS	97	0
2/13	3RD READING PASS	98	1
	TRANSMITTED TO SENATE		
2/14	REFERRED TO JUDICIARY		
3/11	HEARING		
3/13	COMMITTEE REPORT-BILL CONCURRED		
3/15	2ND READING CONCURRED	48	0
3/18	3RD READING CONCURRED	47	2
	RETURNED TO HOUSE		
3/23	SIGNED BY SPEAKER		
3/23	SIGNED BY PRESIDENT		
3/25	TRANSMITTED TO GOVERNOR		
3/29	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 227 EFFECTIVE DATE: 10/01/85		

HB 301 INTRODUCED BY BRADLEY, GOULD, ET AL.
REQUIRE REGULATION AND LICENSING OF PRESCHOOL PROGRAMS

1/21	INTRODUCED		
1/21	REFERRED TO EDUCATION & CULTURAL RESOURCES		
1/22	FISCAL NOTE REQUESTED		
1/22	REREFERRED TO HUMAN SERVICES & AGING		
1/28	FISCAL NOTE RECEIVED		
2/08	HEARING		
2/16	FISCAL NOTE REQUESTED		
2/18	COMMITTEE REPORT-NO RECOMMENDATION		
2/23	FISCAL NOTE RECEIVED		
2/23	2ND READING INDEFINITELY POSTPONED		

HB 302 INTRODUCED BY J. BROWN
ADOPTS INTERSTATE MUTUAL AID COMPACT
BY REQUEST OF DEPARTMENT OF MILITARY AFFAIRS

1/21	INTRODUCED		
1/21	REFERRED TO STATE ADMINISTRATION		
1/31	HEARING		
1/31	COMMITTEE REPORT-BILL PASS AS AMENDED		
1/31	STATEMENT OF INTENT ATTACHED		
2/02	2ND READING PASS	94	0
2/04	3RD READING PASS	99	0

(To be kept current -- post bills when entering being heard or leaving committee.) Form CS-32

STATUS SHEET

FORTY-NINTH LEGISLATIVE SESSION

COMMITTEE ON JUDICIARY

HOUSE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
HB 293	1/21/85	2/4/85	2/4/85			2/4/85			
HB 300	1/21/85	2/11/85	2/11/85			2/11/85			
HB 304	1/21/85	2/4/85	2/13/85		2/13/85				

Use a separate sheet for Senate bills.

HOUSE BILL NO. 300

INTRODUCED BY NATHE Bradley E. Smith Campbell O'Hara Bergene Cobb Mdarr O'Connell Cook J. Brown Bill Hart

A BILL FOR AN ACT ENTITLED: "AN ACT TO EXTEND THE STATUTE OF LIMITATIONS FOR PROSECUTION OF CERTAIN SEX OFFENSES AGAINST VICTIMS LESS THAN 16 YEARS OLD; AMENDING SECTION 45-1-205, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 45-1-205, MCA, is amended to read:

"45-1-205. General time limitations. (1) (a) A prosecution for criminal homicide may be commenced at any time.

(b) A prosecution under 45-5-502 through 45-5-505 may be commenced within 5 years after the offense was committed if the victim was less than 16 years old at the time the offense occurred.

(2) Except as otherwise provided by law, prosecutions for other offenses are subject to the following periods of limitation:

(a) A prosecution for a felony must be commenced within 5 years after it is committed.

(b) A prosecution for a misdemeanor must be commenced within 1 year after it is committed.

(3) The period prescribed in subsection (2) is

extended in a prosecution for theft involving a breach of fiduciary obligation to an aggrieved person as follows:

(a) if the aggrieved person is a minor or incompetent, during the minority or incompetency or within 1 year after the termination thereof;

(b) in any other instance, within 1 year after the discovery of the offense by the aggrieved person or by a person who has legal capacity to represent an aggrieved person or has a legal duty to report the offense and is not himself a party to the offense or, in the absence of such discovery, within 1 year after the prosecuting officer becomes aware of the offense.

(4) The period prescribed in subsection (2) shall be extended in a prosecution for unlawful use of a computer, and prosecution shall be brought within 1 year after the discovery of the offense by the aggrieved person or by a person who has legal capacity to represent an aggrieved person or has a legal duty to report the offense and is not himself a party to the offense or, in the absence of such discovery, within 1 year after the prosecuting officer becomes aware of the offense.

(5) An offense is committed either when every element occurs or, when the offense is based upon a continuing course of conduct, at the time when the course of conduct is terminated. Time starts to run on the day after the offense

INTRODUCED BILL
HB 300

is committed.

(6) A prosecution is commenced either when an indictment is found or an information or complaint is filed."

-End-

MINUTES FOR THE MEETING
JUDICIARY COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

February 11, 1985

The meeting of the Judiciary Committee was called to order by Chairman Tom Hannah on Monday, February 11, 1985 at 8:00 a.m. in Room 312-3 of the State Capitol.

ROLL CALL: All members were present.

CONSIDERATION OF HOUSE BILL NO. 265: Rep. Keyser informed the committee that the subcommittee studying the stream access bills has drafted a "gray bill". The changes as set forth in the gray bill were a result of a unanimous decision made among the subcommittee members. The gray bill is being prepared and will be submitted.

RE-CONSIDERATION OF HOUSE BILL NO. 443: Although HB 443 was sent out of committee on February 7, 1985, the Statement of Intent was not attached. The bill was re-referred back to committee so that the Statement of Intent could be adopted. On that basis, Rep. O'Hara moved that the committee adopt the Statement of Intent to HB 443. The motion was seconded by Rep. Hammond and carried unanimously.

CONSIDERATION OF HOUSE BILL NO. 620: Rep. Bradley, chief sponsor for HB 620, said the bill requires justices of the peace to be certified prior to their taking office. This process is basically done through the existing commission on courts. She pointed out that this would not be practiced until January 6, 1986. After that time, a J.P. could only assume the functions of that office if he filed with the county clerk and recorder a certificate showing that he completed the required educational course set up by the commission. She said it would require no expenses because it is something that can be asborbed by the commission.

Janet Stevens, justice of the peace in Missoula, testified in favor of this bill. She said the purpose of the bill is to further professionalize the courts of limited jurisdiction. It will increase the public's trust in justice of the peace courts.

Jim Jensen, appearing on behalf of the Montana Magistrates Association, wished to go on record as supporting this legislation.

There being no further proponents or opponents, Rep. Bradley closed. The floor was opened for questioning.

Rep. Mercer wanted to know if this bill will require temporary judges to go through this process. Rep. Bradley stated that it will not apply to those cases.

Rep. Bradley referred Rep. Mercer to section 2 of the bill dealing with temporary judges.

In response to a question asked by Rep. Hannah, Rep. Bradley said that section 5 refers to expenses as to how judges are entitled to reimbursement for the twice-a-year educational process. This new process counts towards that educational process, so she doesn't think the county expenses would be any different.

There being no further questions, hearing closed on HB 620.

CONSIDERATION OF HOUSE BILL NO. 300: Rep. Dennis Nathe, House District 19, HB 300's sponsor, appeared and offered testimony. He said this bill will extend the statute of limitations back five years on all sexual abuse charges filed against the person to make it consistent with a felony. He stated specifically the age of 16 because he feels this is consistent with the statutes.

David Briggs, executive director of the Mental Health Region, covering the southwest corner of the state of Montana, supports this legislation because in their experience in working with sex offenders, they have discovered that often times those offenders have committed a number of other kinds of offenses. If one person has the courage to bring charges against his/her attacker, then a lot of times other persons will come forward and admit to a prior offense committed against them years ago.

There being no further proponents or opponents, Rep. Nathe closed.

The floor was opened to questioning.

Rep. O'Hara wanted to know haw far they can go back at the present time. Rep. Nathe stated that it would depend upon which statute a child abuser is charged under. Rep. Nathe is trying to make all the statutes specifically dealing with children involving sexual assault consistent.

Rep. Nathe at this time, stated he should have offered some amendments which he had intended to do at the

outset of his testimony. The statute dealing with incest should be included -- 45-5-507. Also, 45-5-625 which is the child abuse statute concerning pornography, the fondling of children, etc. should be added. He said these two statutes were left out inadvertently.

There being no further questions, hearing closed on HB 300.

CONSIDERATION OF HOUSE BILL NO. 313: Rep. Dennis Nathe, House District #19, sponsor of this bill, testified in support of HB 313. This is an act establishing the time for trial of a person committing a sex offense against a victim less than 16 years old. Rep. Nathe was candid with the fact that he didn't object if the committee wanted to table this bill. He said that in the state of Montana, a speedy trial is provided within six months, and the most time he was able to shorten the six months was two months. Any good defense lawyer will try to delay the trials. The longer the delay, the less explosive the situation is and the more people can forget. Rep. Nathe said that some of these criminal cases have dragged on for over a year. This was an attempt to try to rectify that problem, but he realizes that both sides have to have plenty of time to prepare their cases.

There were no further proponents or opponents, and Rep. Nathe closed.

There were no questions, and the hearing closed on HB 313.

CONSIDERATION OF HOUSE BILL NO. 644: Rep. Dennis Nathe, House District #19, sponsor of the bill, testified. He said this is an act providing for a pre-sentence investigation of a person convicted of committing a sex offense against a victim less that 16 years old. Rep. Nathe offered amendments to this bill as he did with HB 300 which would add 45-5-507 and 45-5-625. Also, he wished to amend line 19 of the bill by striking "psychiatric". At the end of the sentence on line 20 following "treatment" he wished to add "by a qualified professional person qualified by training and experience." He said the reason for amending this is because there are only two psychiatrists in the state. There are psychologists in the state who have the necessary training, in addition to other qualified people who could provide the necessary information to the court. This amendment would allow these additional people to be able to make these evaluation reports.

offered by Mr. Kelly. He further stated that the company doesn't have any problem with HB 265.

Mike Micone, representing the Western Environmental Trade Association, stated his support for the bill with the amendments offered by Mr. Kelly.

There being no proponents to the bill, Rep. Grady closed. Rep. Grady feels this bill should pass in case HB 265 is jeopardized in any way.

In response to a question by Rep. Eudaily, Mr. Kelly stated that the intent of the bill is to say that while we are trying to prevent good reasonable use of the facility from the impoundment on, we are not trying to regulate the water that is behind the dam. Mr. Kelly stated he would have no objection clarifying this language.

Hearing closed on HB 520.

EXECUTIVE SESSION:

Representative Hannah called an executive session at 10:30 a.m.

ACTION ON HOUSE BILL NO. 575: Rep. Darko moved that HB 575 DO PASS. The motion was seconded by Rep. Hammond.

Rep. Addy moved the bill on line 25 following "victim" by striking the rest of the sentence in its entirety. The motion was seconded by Rep. Rapp-Svrcek and the question called. The motion to amend carried unanimously.

Rep. Darko moved that HB 575 DO PASS AS AMENDED. The motion was seconded by Rep. Hammond and discussed. The question was called, and the motion carried unanimously.

ACTION ON HOUSE BILL NO. 600: Rep. Keyser moved that HB 600 DO PASS. The motion was seconded by Rep. O'Hara. The motion carried with Rep. Brown and Krueger dissenting.

ACTION ON HOUSE BILL NO. 313: Rep. Keyser moved that HB 313 BE TABLED. The motion was seconded by Rep. Gould and carried unanimously.

ACTION ON HOUSE BILL NO. 300: Rep. Eudaily moved that HB 300 DO PASS. The motion was seconded by Rep. Hammond.

Rep. Keyser moved to adopt the amendments as proposed by Rep. Nathe by adding the new sections of "45-5-507" and "45-5-525" following "45-5-505".

The question was called on the amendment, and the motion carried unanimously.

Rep. Hammond moved that HB 300 DO PASS AS AMENDED. The motion was seconded by Rep. O'Hara and carried unanimously.

ACTION ON HOUSE BILL NO. 664: Rep. Hammond moved that HB 664 DO PASS. The motion was seconded by Rep. Darko.

Rep. Brown moved to amend the bill to include sections 45-5-507 and 45-5-525. The motion was seconded by Rep. Gould. The question was called, and the motion carried with Rep. Montayne dissenting.

Rep. Addy moved to amend page 1, line 19 by striking "psychiatric" then on line 20 following "treatment." insert "by a person qualified by professional training and experience." The motion was seconded by Rep. Hammond.

Rep. Eudaily wanted to know who determines whether a person is qualified in the area addressed here. Rep. Addy answered by saying that the supreme court ultimately determines that.

Rep. Krueger stated his support for the amendment because there is very little psychiatric help available, and this would enable other qualified people to make these evaluations.

The question was called, and the motion to amend passed unanimously.

Rep. Hammond moved that HB 664 DO PASS AS AMENDED. The motion was seconded by Rep. Eudaily.

Rep. Montayne spoke against the bill saying that he feels the bill is going too far.

Rep. Gould feels this will just be another reason to have these offenders turned loose.

Rep. Mercer spoke in favor of the bill stating that is will just give the judge more information in dealing with these cases.

The question was called, and the DO PASS AS AMENDED motion passed with Reps. Hannah, Gould and Montayne dissenting.

February 11 19 85

MR. SPEAKER:

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 300

FIRST reading copy (WHITE color)

EXTEND TIME FOR PROSECUTION OF SEX OFFENSES AGAINST CHILDREN

Respectfully report as follows: That HOUSE Bill No. 300

be amended as follows:

1. Page 1, line 14.
Following: "45-5-503"
Insert: ", 45-5-507, or 45-5-625"

AND AS AMENDED,

DO PASS

REP. TOM HANNAH Chairman.

STATE PUB. CO.
Helena, Mont.

COMMITTEE SECRETARY

CHAIRMAN--MAZUREK, JOE
SECRETARY-STALEY, CINDY
NORMAL SCHEDULE==> SITE: OLD SUPREME COURT ROOM DAYS: M-TU-W-TH-F TIME: 10:00 A.M.-12 NOON

--BILL NO---	REFER DATE---	HEARING DATE---	CONSIDERATION DATES----------	COMMITTEE ACTION----------	REREFERRED TO COMM----	DATE OUT-
HB0187	1/24	3/15		CONCUR AS AMENDED		3/23
HARPER, HAL			RECOVERY OF COSTS FOR ENFORCING PUBLIC WATER SUPPLY LAW			
HB0200	2/07	3/15		CONCUR AS AMENDED		3/19
WALDRON, STEVE			EXTENDING EARLY PAROLE AUTHORITY TO RELIEVE PRISON OVERCROWDING			
HB0210	2/22	3/06		CONCUR		3/6
CONNELLY, MARY ELLEN			GENERALLY STRENGTHENING DRUNK DRIVING LAWS			
HB0246	1/30	3/06		CONCUR		3/6
CONNELLY, MARY ELLEN			SEIZURE OF DRIVER'S LICENSE ON CONVICTION REQUIRING MANDATORY SUSPENSION			
HB0264	2/04	3/07		ADVERSE REPORT /as amended		3/7
PISTORIA, PAUL G.			REQUIRING BUILDING CONTRACTORS TO PROMPTLY PAY SUBCONTRACTORS, SUPPLIERS			
HB0265	2/21	3/08	3/09 3/20 3/15	CONCUR AS AMENDED		3/27
REAM, BOB			STREAM ACCESS			
HB0276	2/21	3/05		CONCUR AS AMENDED		3/5
BRADLEY, DOROTHY			TAX INFORMATION ON APPLICANTS FOR PUBLIC ASSISTANCE AUTHORIZED FOR SRS			
HB0286	1/30	3/12		CONCUR AS AMENDED		3/15
KITSELMAN, LES			PROVIDING CIVIL PENALTY FOR BYPASSING OR TAMPERING WITH UTILITY METER			
HB0293	2/08	3/07		CONCUR AS AMENDED		3/7
BARDANOUVE, FRANCIS			CIVIL PENALTY FOR FAILURE TO ACKNOWLEDGE LIEN SATISFACTION			
HB0295	4/03	4/12		CONCUR AS AMENDED		4/15
HARRINGTON, DAN W.			REVISION OF MOTOR VEHICLE LEMON LAW			
HB0300	2/14	3/11		CONCUR		3/13
NATHE, DENNIS G.			EXTEND TIME FOR PROSECUTION OF SEX OFFENSES AGAINST CHILDREN			

MONTANA STATE SENATE
JUDICIARY COMMITTEE
MINUTES OF THE MEETING

March 11, 1985

The forty-sixth meeting of the Senate Judiciary Committee was called to order at 10:05 a.m. on March 11, 1985, by Chairman Joe Mazurek in Room 325 of the Capitol Building.

ROLL CALL: All committee members were present.

CONSIDERATION OF HB 644: Representative Dennis Nathe, sponsor of the bill, testified this bill provides for an evaluation after a conviction of any of the offenses found in Sections 45-5-502 through 505 and 45-5-507 and 625, MCA. It would provide for an evaluation of a person under conviction under those statutes before the sentencing. It gives the judges some background in their sentencing as to whether certain individuals should be removed from society or have counseling.

PROPONENTS: David Briggs testified on behalf of Mental Health Services Inc. He stated the standard training does not adequately train them to deal with the unique and difficult problems of sex offenders. In order to evaluate and treat them, they need special training and equipment. It is only through a proper evaluation that it can be determined who can or should be treated on an incarceration basis or safely on an outpatient basis in the community. Just putting them in jail does the offender and the community no good. Individuals incarcerated without treatment don't get any better. Sex offenders cannot be cured, but they can be controlled.

OPPONENTS: None.

QUESTIONS FROM THE COMMITTEE: Senator Blaylock questioned how this would work in connection with the bill that gives them 30 days in jail. Representative Nathe replied the other bill called for a mandatory jail sentence for violation of any of the statutes listed. They would spend their 30 days and then if this bill were passed, either during the 30 days in jail or after that, they would have to have the evaluation and then possibly go for treatment. Senator Yellowtail asked if "qualified by professional experience" were enough of a definition. Mr. Briggs replied they struggled with that but thought it was satisfactory. Senator Yellowtail asked if the court would know who those individuals were. Mr. Briggs replied that although there is no guarantee, he would hope so. Senator Mazurek pointed out we have some licensing standards by the Department of Institutions. He asked if they would be appropriate

here. Mr. Briggs replied no. They just qualify people very generally and very broadly in terms of professional people. Senator Crippen pointed out this qualified person could also be a psychiatrist. He asked if the fiscal note were based on a psychiatrist's doing all 25 cases contemplated. Mr. Briggs responded yes, since they would be doing them at the Deer Lodge facility, although other facilities are capable of doing the evaluating.

CLOSING STATEMENT: Representative Nathe explained that a psychiatrist's doing these evaluations meant they had to go to the one in Billings or to the prison. If they put in psychologists, that fouled it up with the psychiatrists.

Hearing on HB 644 was closed.

CONSIDERATION OF HB 300: Representative Dennis Nathe, sponsor of the bill, testified this bill provides for a uniform statute of limitations of five years for all of the offenses listed in the previous bill. This tries to achieve some consistency by making it five years for all of these sexual crimes.

PROPONENTS: David Briggs, representing Mental Health Services Inc., stated this would allow them to go back five years and get the full extent of that person's crime, which would be very helpful.

OPPONENTS: None.

QUESTIONS FROM THE COMMITTEE: Senator Pinsoneault asked why they used five years. Representative Nathe said this is consistent with the statute of limitations or the time limit for all felonies. If the committee felt going back further would be helpful, he would find that acceptable. Senator Pinsoneault asked if he were aware there are some violations for which there are no statutes. Representative Nathe replied yes.

CLOSING STATEMENT: Representative Nathe explained that by extending this back five years, what happens is it is not the transients, it is the close friends or the relatives or someone in the immediate family. Then someone gets involved who has the guts to stand up for the child. At the point when someone steps forward, other people have the guts enough to come forward. By extending this back five years on all of these crimes, the judge and psychiatrist can see if there is some pattern.

Hearing on HB 300 was closed.

ROLL CALL

SENATE JUDICIARY COMMITTEE

49th LEGISLATIVE SESSION -- 1985 Date 03/11/85

NAME	PRESENT	ABSENT	EXCUSED
Senator Chet Blaylock	X		
Senator Bob Brown	X		
Senator Bruce D. Crippen	X		
Senator Jack Galt	X		
Senator R. J. "Dick" Pinsoneault	X		
Senator James Shaw	X		
Senator Thomas E. Towe	X		
Senator William P. Yellowtail, Jr.	X		
Vice Chairman Senator M. K. "Kermit" Daniels	X		
Chairman Senator Joe Mazurek	X		

DATE March 11, 1985

COMMITTEE ON Judiciary BILL NO H.B. 310
Sets Help Restraining Order

VISITOR'S REGISTER HB 44, 300, 310, 644, 717, 726, 781

NAME	REPRESENTING	Check One: Support	Oppose
Caryl Wickes Borchers	Montana Coalition Against Domestic Violence	HB310	
[illegible]	Victim of Domestic Abuse	HB310	
[illegible]	[illegible]	HB310	
[illegible]	Victim Domestic Violence	HB310	
[illegible]	Women's Lobbyist Fund	HB310 HB644 HB44	
[illegible]	Womens Lobbyist Fund	HB-44 HB-310 HB-644	
[illegible]	[illegible]		HB726
[illegible]	Montana Legal Services Assn	(HB717)	
[illegible]	Department of Justice		HB726
Robert E. Rowe	Montana Peace Officers Assn.	310	
Liam Shaw	Dept. of Labor		
Cathy Campbell	MT Assn of Churches	HB 44	
[illegible]	United Health Services	HB644	
Larry Majerus	Dept of Justice		HB726
MARK MURPHY	AG OFFICE	HB781	
~~Jeanne H. Buchanan~~	~~Missoula~~ Flathead Co. DUI Task Force	~~HB726~~	HB726
BETTY WILLIG	MISSOULA COUNTY ATTY'S OFF		HB726
Jim Jensen	MT. Magistrates Assn	644 HB310	
Alan Nicholson	MT Trial Lawyers Assn		HB717
Marie Adrian	Counselor SB44	HB547 HB310	
Douglas Gray	Citizens Rights for Parents (Pres)		HB717
Bill Rehbein	" (Hna.		HB717
Bill Leimbach	"		HB717
Mike McGrath	County Atty's Assoc	HB547 310	
Chris Compton	Highway Traffic Safety - Justice		726
Caryl Wickes Borchers	Great Falls Community Core DUI Task force, Team of Gt. Falls		HB726

(Please leave prepared statement with Secretary)

DATE _____

COMMITTEE ON _____ BILL NO. _____

VISITOR'S REGISTER

NAME	REPRESENTING	Check One: Support	Check One: Oppose
Caryl Wickes Borchers	Mt. Coalition Against Domestic Violence	HB 44	781
Caryl Wickes Borchers	" " " "	HB 717	
Rosemary Keller			781
Julie Ferguson	Victim of Domestic Violence	717, 44	781
Holly Franz	Women Can't Commit A Crime Sch.	HB 310	
Mary Gallagher	Women's Law Center	HB 310	
Anita Lindahl	Women's Resource Center	HB 310	

(Please leave prepared statement with Secretary)

MONTANA STATE SENATE
JUDICIARY COMMITTEE
MINUTES OF THE MEETING

March 13, 1985

The forty-eighth meeting of the Senate Judiciary Committee was called to order at 10:06 a.m. on March 13, 1985, by Chairman Joe Mazurek in Room 325 of the Capitol Building.

ROLL CALL: All committee members were present.

CONSIDERATION OF HB 801: Representative Loren Jenkins, sponsor of the bill, testified the effect of this bill is they will be paid in each county according to its case load. He is from a three county judicial district. By valuation, the two counties, instead of paying by case load, are paying an unequal proportion. They only ask that they pay for what work is allocated to their counties.

PROPONENTS: Henry Gossman, Choteau County Commissioner, presented written testimony to the committee (Exhibit 1). Beverly Gibson, representing the Montana Association of Counties, testified in support of the bill stating it is basically a housekeeping measure. They are asking that the language be made similar to that of court reporters.

OPPONENTS: None.

QUESTIONS FROM THE COMMITTEE: Senator Mazurek questioned the effective date. He stated this would require the counties to go back for this year and allocate these costs different than they have done up to this point for 1985. Mr. Jenkins stated the application will go into effect this year, but the judge will forward it to the county commissions for their budget year 1986. It will not change the counties' budget in 1985, but it gives them a chance to start their groundwork in 1985 so the judge can send it to the commissioners for the 1986 budget. Senator Mazurek asked if it were their intention to make it apply to this year. Mr. Jenkins replied yes. Mr. Gibson stated for the next fiscal year, 1986, the counties set their budget in July and adopt it in August. They base it on calendar years 1984 and 1985. Senator Mazurek asked if the effective date shouldn't be July 1, 1986. Senator Towe commented it didn't have that impact. Senator Mazurek questioned whether case load accurately determined work load. Mr. Gibson replied generally that would be a rule of thumb similar to the court reporters' case load. Senator Pinsoneault commented the youth court judge and the district judge are one and the same. He asked if the youth court were to make that determination. Some of your probation officers work for the

situations where there is no provision in an existing contract. Senator Pinsoneault suggested this bill be given to an interim committee.

FURTHER CONSIDERATION OF HB 44: Proposed amendments were distributed to the committee (Exhibit 9). Senator Mazurek stated these amendments require if the person is financially able to do it. He also suggested changing "shall" on page 2, line 10, to "may." Senator Towe suggested looking at reasonable attorneys' fees.

ACTION ON HB 300: Senator Pinsoneault stated this bill created a statute of limitations for these type of offenses for five years instead of three. Mr. Petesch explained what it does is treat these sex offenses as if they were felonies when they may not have been. Senator Pinsoneault moved HB 300 be recommended BE CONCURRED IN. Senator Daniels questioned why they were extending the statute of limitations. If we don't try them almost immediately, the kid shouldn't have to live through it again later. Senator Towe pointed out proof is a problem in sex offenses in any event. Senator Pinsoneault stated it is a concern for family type violations. It simply expands the scope of the statute for those type of offenses. The motion carried with Senator Daniels voting in opposition.

FURTHER CONSIDERATION OF HB 371: Senator Towe stated this bill is probably okay because all of the protection they need is in the UCC. If a subsequent purchaser for value comes along and buys whatever it is, they get the whole property regardless of any lien. If a bank lends new money, it doesn't matter whether they knew of the lien or not; they have full protection on the vehicle. He felt Mr. Petesch should check into that. He felt the full protection was already there, and we can repeal this section without any problem.

There being no further business to come before the committee, the meeting was adjourned at 12:20 p.m.

Committee Chairman

STANDING COMMITTEE REPORT

March 13 19 85

MR. PRESIDENT

We, your committee on JUDICIARY

having had under consideration HOUSE BILL No. 300

third reading copy (blue color)

(Senator Smith)

EXTEND TIME FOR PROSECUTION OF SEX OFFENSES AGAINST CHILDREN

Respectfully report as follows: That HOUSE BILL No. 300

BE CONCURRED IN

~~XXXXXX~~

~~XXXXXXXXX~~

Senator Joe Mazurek Chairman.

HOUSE BILL NO. 300

INTRODUCED BY NATHE, BRADLEY, E. SMITH, CAMPBELL, O'HARA. BERGENE, COBB, JACK MOORE, O'CONNELL, PECK, J. BROWN, HAND

A BILL FOR AN ACT ENTITLED: "AN ACT TO EXTEND THE STATUTE OF LIMITATIONS FOR PROSECUTION OF CERTAIN SEX OFFENSES AGAINST VICTIMS LESS THAN 16 YEARS OLD; AMENDING SECTION 45-1-205, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 45-1-205, MCA, is amended to read:

"45-1-205. General time limitations. (1) (a) A prosecution for criminal homicide may be commenced at any time.

(b) A prosecution under 45-5-502 through 45-5-505, 45-5-507, OR 45-5-625 may be commenced within 5 years after the offense was committed if the victim was less than 16 years old at the time the offense occurred.

(2) Except as otherwise provided by law, prosecutions for other offenses are subject to the following periods of limitation:

(a) A prosecution for a felony must be commenced within 5 years after it is committed.

(b) A prosecution for a misdemeanor must be commenced within 1 year after it is committed.

(3) The period prescribed in subsection (2) is extended in a prosecution for theft involving a breach of fiduciary obligation to an aggrieved person as follows:

(a) if the aggrieved person is a minor or incompetent, during the minority or incompetency or within 1 year after the termination thereof;

(b) in any other instance, within 1 year after the discovery of the offense by the aggrieved person or by a person who has legal capacity to represent an aggrieved person or has a legal duty to report the offense and is not himself a party to the offense or, in the absence of such discovery, within 1 year after the prosecuting officer becomes aware of the offense.

(4) The period prescribed in subsection (2) shall be extended in a prosecution for unlawful use of a computer, and prosecution shall be brought within 1 year after the discovery of the offense by the aggrieved person or by a person who has legal capacity to represent an aggrieved person or has a legal duty to report the offense and is not himself a party to the offense or, in the absence of such discovery, within 1 year after the prosecuting officer becomes aware of the offense.

(5) An offense is committed either when every element occurs or, when the offense is based upon a continuing

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course of conduct, at the time when the course of conduct is terminated. Time starts to run on the day after the offense is committed.

(6) A prosecution is commenced either when an indictment is found or an information or complaint is filed."

-End-